



## Central Plains Energy Project

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February 21, 2017

Mr. Robert deV. Frierson  
Secretary  
Board of Governors of the Federal Reserve System  
20th Street and Constitution Avenue, NW  
Washington, DC 20551

### Via Agency Website

**Re: Docket No. R-1547; RIN 7100 AE-58, Risk-based Capital and Other Regulatory Requirements for Activities of Financial Holding Companies Related to Physical Commodities and Risk-based Capital Requirements for Merchant Banking Investments, Notice of Proposed Rulemaking**

The Central Plains Energy Project ("CPEP") submits this letter in response to the request for comments by the Board of Governors of the Federal Reserve System (the "Board") in its Notice of Proposed Rulemaking (the "Proposed Rule") relating to the physical commodities activities of financial holding companies ("FHCs").

CPEP is a separate legal entity and a public body corporate and politic (including a not-for-profit corporation) organized under the laws of the State of Nebraska and an instrumentality of its members pursuant to the provisions of the Nebraska Interlocal Cooperation Act (Chapter 13, Article 8, Reissue Revised Statutes of Nebraska, as amended). It has three members: the Metropolitan Utilities District of Omaha, Nebraska; the Municipal Gas Utility of the City of Cedar Falls, Iowa; and the City of Hastings, Nebraska, d/b/a Hastings Utilities.

CPEP is a joint action gas supply agency that provides wholesale sales service to its members and other municipal natural gas distribution systems in the States of Nebraska, Iowa, and South Dakota. CPEP is a participant in the municipal gas marketplace for long-term gas supplies. These gas supplies are essential to enable CPEP to meet the needs of its members and customers for reliable, secure, firm natural gas deliveries at reasonable and competitive prices. One of the primary strategies to meet these needs which CPEP has pursued since 2006, is pursuing today, and intends to pursue in the years to come is the purchase of natural gas supplies through gas prepayment transactions. FHCs are among the primary participants in that marketplace as gas suppliers. As such they provide an essential service to the municipal gas industry, one that we believe could not and would not be replicated or replaced by other industry participants, at least not under market conditions that have prevailed over at least the past ten years.

CPEP has entered into two long-term natural gas prepayment transactions with an FHC, and one of its members plans to participate as a customer in a gas prepayment transaction with another FHC. It is essential to the health of our members' systems and the systems of the other governmental participants in our long-term supply projects, and essential to the natural gas consuming public that they serve, that CPEP and other municipal gas systems continue to have the option available to them to purchase long-term natural gas supplies through gas prepayment transactions. Accordingly, any governmental steps, including those contemplated in the Proposed Rule, that could lead to the inability of FHCs to participate in that marketplace or could increase the cost of doing so would be adverse to CPEP's interests, those of our members and other governmental customers, and those of the consumers we serve – residential, commercial, institutional, and industrial.

It is important to stress that CPEP's interests are consistent with the interests of the natural gas consuming public that our members and other governmental customers serve. All of us are in the natural gas business on a not-for-profit basis, with the mission of providing

heating, cooking, and water heating fuel to our consumers and fuel for industrial applications, on a secure, reliable basis at the lowest reasonable cost possible.

CPEP filed comments on the ANPR on April 15, 2014. We recognize and appreciate the fact that the Proposed Rule retreats from the proposed prohibition on FHCs remaining in the physical natural gas business that was contemplated in the ANPR. However, we think the Proposed Rule nonetheless overreaches. Natural gas is an area of the commodities world that does not need fixing. We urge you to leave well enough alone here.

The Proposed Rule proposes increases in capitalization requirements that will increase the cost of doing business for FHCs participating in the natural gas markets. This could have the result of increasing the cost of natural gas prepayments for CPEP and therefore for consumers served by our municipal gas system customers. Capitalization requirements on holding inventory provide a disincentive for FHCs to be physical gas suppliers in prepayment transactions other than as suppliers taking transitory or flash title to gas and relying on others as upstream physical commodity suppliers. The Proposed Rule could convince some FHCs (in addition to those that already have) to withdraw from the physical gas markets as it becomes more difficult to operate profitably in them. A reduction in the number of prepaid gas suppliers in the market will be detrimental to municipal gas systems.

Not only would the departure of FHCs from the physical natural gas commodity marketplace be highly adverse to the interests of municipal gas systems and gas consumers, it would, in our view, serve no countervailing public purpose. Our experience is that FHCs are more efficient and operate in a regulated environment that results in them taking a cautious, businesslike approach to their commercial obligations and strict adherence to the requirements of their contracts. They are experienced participants in the natural gas commodities markets and have developed an increasingly sophisticated understanding of the specific markets in which they operate. For almost ten years of continuous experience, we have found them to be

customer-oriented with a strong desire to be long-term business partners with us. Short-term benefit has never trumped the preservation of long-term relationships in our experience with them.

The natural gas commodities marketplace has only been deregulated for a couple of decades. We have already seen significant changes in the structure of that industry in those two decades. We strongly believe that changes brought about by regulatory fiat would not be in the public interest and would cause significant upheaval, particularly in the long-term gas supply marketplace.

The ANPR expressed, and in turn the Proposed Rule expresses, concern about the impact that catastrophic losses, exemplified by the Macondo disaster in the Gulf of Mexico and the San Bruno pipeline rupture in California, could have on FHCs as a result of their participation in the physical commodities markets. This fear, in our view, is entirely inapplicable and misplaced, because we are talking about the purchase and sale of natural gas by FHCs in the market, a market that includes thousands of participants. Such commercial activities do not involve the ownership of oil and gas producing infrastructure or gas or oil transmission pipelines, or anything comparable to them that poses the risk of catastrophic loss.

Accordingly, it is our view that those FHCs that wish to should be permitted to continue to play the roles in the physical gas commodity marketplace that they have come to play in recent years without additional regulatory restrictions. We believe the Board should not impose additional restrictions, operational or financial, on FHCs that are participants in the physical natural gas commodity industry and believe that doing so would have the effect of harming CPEP and the consumers we serve and similar systems and consumers nationwide.

CPEP appreciates the opportunity to comment and would be pleased to answer any questions the Board may have of us as it continues to analyze these important issues.

Sincerely,



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